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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,407	07/09/2003	Phillip M. Santisi	8106.002.US	7945
69911 7590 10/07/2008 JAMES REMENICK NOVAK DRUCE & QUIGG, LLP 1300 I STREET NW SUITE 1000 WEST TOWER WASHINGTON, DC 20005			EXAMINER BRITTAIN, JAMES R	
			ART UNIT 3677	PAPER NUMBER
			MAIL DATE 10/07/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/615,407

Applicant(s)

SANTISI, PHILLIP M.

Examiner

JAMES R. BRITTAİN

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-32 and 39-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-32 and 39-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 1, 2008 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

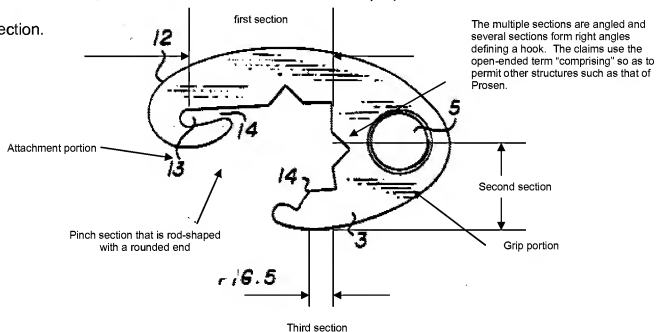
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6-9, 11, 15, 16, 18, 19, 21, 42 and 43 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Prosen (US 5035558).

Art Unit: 3677

Prosen (figure 5) teaches a clasp 3 comprising a hook portion, a grip portion and an attachment portion, the hook portion comprising a first section, a second section and a third section, wherein the first section is connected to and perpendicular with the second section, the second section connected to and perpendicular with the third section.



Prosen utilizes fabric-jacketed elastic cords, which is inherently a bungee cord, to secure loads such as cargo to vehicle racks wherein the configuration of the hook portions are adaptable to securement to a variety of surfaces such as polygonal, cylindrical and irregular surfaces. As claim 1 utilizes the open-ended language "comprising" and the pinch section identified above is rod-shaped with a rounded end thereby meeting the claim language while permitting other structure such as the flattened plate portions extending from the rod-shaped pinch section with a rounded end. Further, applicant doesn't use --consisting-- so as to preclude any other structure

such as the notches in the middle of the straight first and straight second sections. All the parts are interconnected.

As to claims 6 and 7, these relative dimensions are formed by sections of the hook portion of Prosen's device. In regard to claim 8, figure 6 of Prosen shows the hook portion in a single plane. As to claim 9, figure 5 shows that it is possible to configure planes perpendicular to the plane of the paper and aligned with the first and third sections. In regard to claim 11, the claims utilize the open-ended language "comprising" and the pinch section identified above is rod-shaped with a rounded end so as to meet the claim language while permitting other structure. As to claim 15, the pinch section identified above is between and therefore separates the grip portion from the attachment portion. In regard to claim 16, the pinch section identified above pinches the cord and therefore keeps that portion of the cord from entering the grip portion 5. As to claim 18, cargo is considered equipment for a purpose. In regard to claims 21 and 42, as pointed out above there are multiple straight angled portions connected together to form a hook portion.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5, 12, 13, 22-24, 26-28, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prosen (US 5035558) in view of Chuan (US 4831692).

Prosen (figure 5) teaches a clasp 3 comprising a hook portion, a grip portion and an attachment portion, the hook portion comprising a first section, a second section and a third section, wherein the first section is connected to and perpendicular with the second section, the second section connected to and perpendicular with the third section.

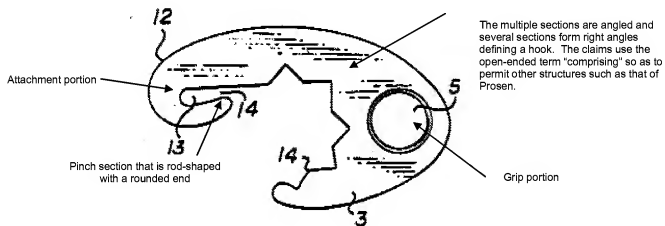


FIG. 5

Prosen utilizes fabric-jacketed elastic cords, which is inherently a bungee cord, to secure loads such as cargo to vehicle racks wherein the configuration of the hook portions are adaptable to securement to a variety of surfaces such as polygonal, cylindrical and irregular surfaces. The difference with regard to claim 2 is that the hook of figure 5 is an intermediate hook rather than being found at the ends of the cord. However, Chuan (figures 1-3, 5, 7) teaches that it is desirable to secure clasps with grip

portions at the ends of the cord without intermediate hooks wherein there are reduced gaps in the attachment portions that would pinch the cord in a similar manner to that of Prosen. As Prosen teaches that it is desirable to configure the hook portion with perpendicular portions for both the end hooks and the intermediate hooks and Chuan teaches that it is desirable to secure clasps with grip portions at the ends of the cord without intermediate hooks wherein there are reduced gaps in the attachment portions that would pinch the cord, it would have been obvious to modify the end hooks of Prosen so as utilize hooks with a pinching portion at the ends as taught by Chuan while maintaining the perpendicular sections taught by Prosen since Prosen wishes to keep the angular hook portion because of its greater use in securing the clasp to various shapes. As to claim 5, the devices of Prosen and Chuan describe the typical bungee cord that is well known. In regard to claim 22, this claim is rejected for the reasons identified for claim 2 with the further observation that the pinch section identified above with respect to Prosen pinches the cord and therefore keeps that portion of the cord from entering the grip portion 5. As to claims 12, 13, 27 and 28, Chuan teaches that the use of steel is conventional for forming the hooks as would be expected because of its strength (col. 1, lines 19-25).

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prosen (US 5035558) in view of Simon (US 3328064).

Prosen (figure 5) teaches a clasp 3 comprising a hook portion, a grip portion and an attachment portion, the hook portion comprising a first section, a second section and a third section, wherein the first section is connected to and perpendicular with the

second section, the second section connected to and perpendicular with the third section.

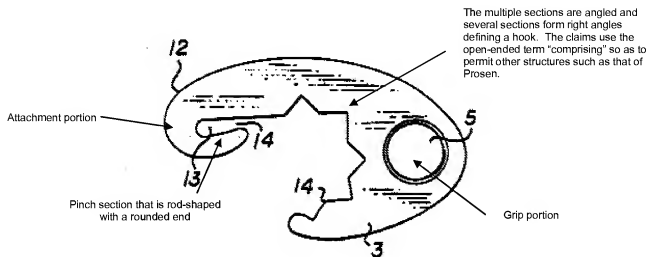


FIG. 5

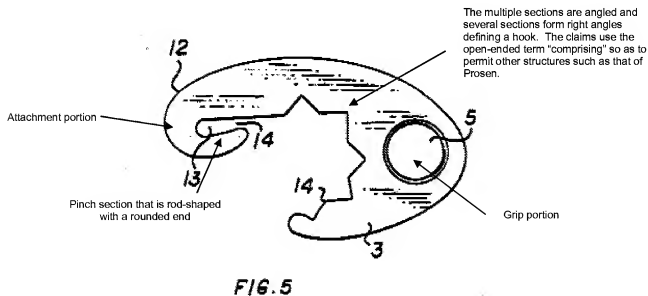
Prosen utilizes fabric-jacketed elastic cords, which is inherently a bungee cord, to secure loads such as cargo to vehicle racks wherein the configuration of the hook portions are adaptable to securement to a variety of surfaces such as polygonal, cylindrical and irregular surfaces. The difference is that while metal is stated as being a material (col. 2, lines 15-17), steel and aluminum are not stated as being used. It would have been obvious to utilize either steel or aluminum in view of Simon (figure 2) teaching the use of aluminum or steel as being desirable for clasps because of their ability to resist corrosion (col. 3, lines 8-12).

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prosen (US 5035558) in view of Chuan (US 4831692) as applied to claim 22 above, and further in view of Simon (US 3328064).

Further modification of the metal clasp of Prosen so that the metal is aluminum would have been obvious in view of Simon (figure 2) teaching the use of aluminum or steel as being desirable for clasps because of their ability to resist corrosion (col. 3, lines 8-12).

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prosen (US 5035558) in view of Yonts (US 4842236).

Prosen (figure 5) teaches a clasp 3 comprising a hook portion, a grip portion and an attachment portion, the hook portion comprising a first section, a second section and a third section, wherein the first section is connected to and perpendicular with the second section, the second section connected to and perpendicular with the third section.



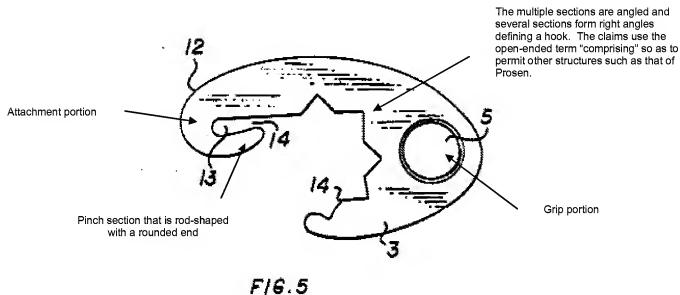
Prosen utilizes fabric-jacketed elastic cords, which is inherently a bungee cord, to secure loads such as cargo to vehicle racks wherein the configuration of the hook portions are adaptable to securement to a variety of surfaces such as polygonal, cylindrical and irregular surfaces. The difference is that the first section doesn't separate the grip portion from the second and third sections of the hook portion. Relocation of the grip portion of the device of Prosen so that the first section separates the grip portion from the second and third sections of the hook portion would have been obvious in view of Yonts (figures 2, 3) teaching placing the grip portion 10 so that the first section separates the grip portion from the second and third sections of the hook portion so as to provide a useful way to apply force to attach the hook portion.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prosen (US 5035558) in view of Chuan (US 4831692) as applied to claim 22 above, and further in view of Yonts (US 4842236).

Further modification of the metal clasp of Prosen so that the first section separates the grip portion from the second and third sections of the hook portion would have been obvious in view of Yonts (figures 2, 3) teaching placing the grip portion 10 so that the first section separates the grip portion from the second and third sections of the hook portion so as to provide a useful way to apply force to attach the hook portion.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prosen (US 5035558) in view of Schrader (US 6113327).

Prosen (figure 5) teaches a clasp 3 comprising a hook portion, a grip portion and an attachment portion, the hook portion comprising a first section, a second section and a third section, wherein the first section is connected to and perpendicular with the second section, the second section connected to and perpendicular with the third section.



Prosen utilizes fabric-jacketed elastic cords, which is inherently a bungee cord, to secure loads such as cargo to vehicle racks wherein the configuration of the hook portions are adaptable to securement to a variety of surfaces such as polygonal, cylindrical and irregular surfaces. The difference is that the cargo isn't listed as a ladder. However, bungee cords are typically used for holding down many items to vehicle racks and Schrader (figure 11) shows that the cargo or equipment can be in the form of a ladder. Therefore, it would have been obvious to utilize the clasp of Prosen to secure a ladder in view of Schrader teaching such a well known use.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prosen (US 5035558) in view of Chuan (US 4831692) as applied to claim 30 above, and further in view of Schrader (US 6113327).

Further modification of the metal clasp of Prosen so that the clasp and bungee cord is utilized to secure a ladder would have been obvious in view of Schrader (figure 11) teaching that the cargo or equipment can be in the form of a ladder, a well known use.

Claims 39 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwab (US 5797167) in view of Prosen (US 5035558).

Schwab (figures 1, 2, 4) teaches a securing device comprising a plurality of cords 1, 2 having two ends apiece, wherein one end of each cord is connected to one other cord at a single position 7 and the other ends of the cords are connected to a clasp 8 to define a symmetric structure at each end. The difference is that the clasp fails to have a grip portion and the three perpendicular sections defined by claim 1. However, Prosen (figure 5) teaches a clasp 3 comprising a hook portion, a grip portion and an attachment portion, the hook portion comprising a first section, a second section and a third section, wherein the first section is connected to and perpendicular with the second section, the second section connected to and perpendicular with the third section. Prosen utilizes fabric-jacketed elastic cords, which is inherently a bungee cord, to secure loads such as cargo to vehicle racks wherein the configuration of the hook portions are adaptable to securement to a variety of surfaces such as polygonal, cylindrical and irregular surfaces. As improving the manipulation of the clasp of Schwab would be desirable as

would those surfaces to which the hook portion can engage, it would have been obvious to modify the clasp of Schwab to have a grip portion and three perpendicular sections as taught to be desirable by Prosen. As to claim 41, given that Schwab joins the ends of the cord 1, 2 together in the seats of the clasp, applicant is given Official Notice that it would have been obvious to knot the ends together so as to form a better connection. As applicant has not traversed the finding of Official Notice, this finding is made final as common knowledge taken to be admitted prior art.

Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schwab (US 5797167) in view of Prosen (US 5035558) as applied to claim 39 above, and further in view of Vasilopoulos (US 5722125).

Further modification of the device of Schwab so that a ring is used to join the ends of the cords would have been obvious in view of Vasilopoulos (figure 2) teaching the use of a ring 12 to unite the ends of cords to be desirable so as to form a securing fastener.

Response to Arguments

Applicant's arguments filed July 1, 2008 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that the description of the hook portion "consists" of three straight sections) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re*

Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). There is simply no reason to view the claim language, which clearly uses the open-ended language "comprising" as precluding other structure such as the notches shown by Prosen in the middle of the first and second sections. Similarly, Prosen sets forth a clasp that "comprises" a shaped rod in that the identified portion of the clasp is a shaped rod with a rounded end. The language is simply broad and Prosen clearly has the right angles connecting the first section to the second section and the second section to the third section.

Applicant repeatedly stresses the use of the term "interconnected". Obviously, a one piece device is fully connected so that all portions are "interconnected". Applicant has failed to define a structural difference. As to claims 39 and 41, obviously knotting two cords or joining two cords together at a single location isn't patentable. The patentable subject matter lies in the hook and it is unclear why the particular structure in sequence isn't being claimed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES R. BRITTAIN whose telephone number is (571)272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on (571) 272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James R. Brittain/
Primary Examiner, Art Unit 3677

JRB